

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TAMIKA A. MARSHALL on behalf of
A.M.H.,

Plaintiff,

v.

THE COMMISSIONER of the Social
Security Administration,

Defendant.

16-CV-174
ORDER

On February 26, 2016, the plaintiff commenced this action. Docket Item 1. On August 2, 2016, the plaintiff moved for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 9; on September 29, 2016, the defendant responded and moved for judgment on the pleadings, Docket Item 11; and on October 20, 2016, the defendant replied, Docket Item 12. On October 26, 2016, this Court referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 13. On April 3, 2018, Judge Foschio issued a Report and Recommendation (“R&R”) finding that the defendant's motion should be granted and that the plaintiff's motion should be denied. Docket Item 14. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's

recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendant's motion and deny the plaintiff's motion.

For the reasons stated above and in the R&R, the plaintiff's motion for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 9, is DENIED; the defendant's motion for judgment on the pleadings, Docket Item 11, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: June 29, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE